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SENATE BILL 6518

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State of Washington

60th Legislature

2008 Regular Session

By Senators Schoesler, Carrell, Sheldon, Morton, Hewitt, Stevens, King, Benton, and Roach

Read first time 01/17/08. Referred to Committee on Ways & Means.

1 AN ACT Relating to reducing business and occupation tax categories  
2 and rates; amending RCW 82.04.285, 82.04.350, 67.16.105, 82.32.045, and  
3 82.04.4451; reenacting and amending RCW 82.04.261; repealing RCW  
4 82.04.286; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 82.04.285 and 2005 c 369 s 5 are each amended to read  
7 as follows:

8 (1) Upon every person engaging within this state in the business of  
9 operating contests of chance; as to such persons, the amount of tax  
10 with respect to the business of operating contests of chance is equal  
11 to the gross income of the business derived from contests of chance  
12 multiplied by the rate of 1.5 percent.

13 ~~(2) ((An additional tax is imposed on those persons subject to tax~~  
14 ~~in subsection (1) of this section. The amount of the additional tax~~  
15 ~~with respect to the business of operating contests of chance is equal~~  
16 ~~to the gross income of the business derived from contests of chance~~  
17 ~~multiplied by the rate of 0.1 percent through June 30, 2006, and 0.13~~  
18 ~~percent thereafter. The money collected under this subsection (2))~~  
19 From the tax imposed in subsection (1) of this section, an amount equal

1 to 0.13 percent of the business's gross income shall be deposited in  
2 the problem gambling account created in RCW 43.20A.892. This  
3 subsection does not apply to businesses operating contests of chance  
4 when the gross income from the operation of contests of chance is less  
5 than fifty thousand dollars per year.

6 (3) For the purpose of this section, "contests of chance" means any  
7 contests, games, gaming schemes, or gaming devices, other than the  
8 state lottery as defined in RCW 67.70.010, in which the outcome depends  
9 in a material degree upon an element of chance, notwithstanding that  
10 skill of the contestants may also be a factor in the outcome. The term  
11 includes social card games, bingo, raffle, and punchboard games, and  
12 pull-tabs as defined in chapter 9.46 RCW. The term does not include  
13 race meets for the conduct of which a license must be secured from the  
14 Washington horse racing commission, or "amusement game" as defined in  
15 RCW 9.46.0201.

16 (4) "Gross income of the business" does not include the monetary  
17 value or actual cost of any prizes that are awarded, amounts paid to  
18 players for winning wagers, accrual of prizes for progressive jackpot  
19 contests, or repayment of amounts used to seed guaranteed progressive  
20 jackpot prizes.

21 NEW SECTION. **Sec. 2.** RCW 82.04.286 (Tax on horse races) and 2005  
22 c 369 s 6 are each repealed.

23 **Sec. 3.** RCW 82.04.350 and 2005 c 369 s 7 are each amended to read  
24 as follows:

25 (~~Except as provided in RCW 82.04.286(1),~~) This chapter shall not  
26 apply to any person in respect to the business of conducting race meets  
27 for the conduct of which a license must be secured from the horse  
28 racing commission.

29 **Sec. 4.** RCW 67.16.105 and 2004 c 246 s 7 are each amended to read  
30 as follows:

31 (1) Licensees of race meets that are nonprofit in nature and are of  
32 ten days or less shall be exempt from payment of a parimutuel tax.

33 (2) Licensees that do not fall under subsection (1) of this section  
34 shall withhold and pay to the commission daily for each authorized day

1 of parimutuel wagering the following applicable percentage of all daily  
2 gross receipts from its in-state parimutuel machines:

3 (a) If the gross receipts of all its in-state parimutuel machines  
4 are more than fifty million dollars in the previous calendar year, the  
5 licensee shall withhold and pay to the commission daily 1.30 percent of  
6 the daily gross receipts; and

7 (b) If the gross receipts of all its in-state parimutuel machines  
8 are fifty million dollars or less in the previous calendar year, the  
9 licensee shall withhold and pay to the commission daily 1.803 percent  
10 of the daily gross receipts.

11 (3) In addition to those amounts in subsection (2) of this section,  
12 a licensee shall forward one-tenth of one percent of the daily gross  
13 receipts of all its in-state parimutuel machines to the commission for  
14 payment to those nonprofit race meets as set forth in RCW 67.16.130 and  
15 subsection (1) of this section, but said percentage shall not be  
16 charged against the licensee. Payments to nonprofit race meets under  
17 this subsection shall be distributed on a pro rata per-race-day basis  
18 and used only for purses at race tracks that have been operating under  
19 RCW 67.16.130 and subsection (1) of this section for the five  
20 consecutive years immediately preceding the year of payment. The  
21 commission shall transfer funds generated under subsection (2) of this  
22 section equal to the difference between:

23 (a)(i) Funds collected under this subsection (3);

24 (ii) Interest earned from the Washington horse racing commission  
25 operating account created in RCW 67.16.280; and

26 (iii) Fines imposed by the board of stewards in a calendar year;  
27 and

28 (b) Three hundred thousand dollars;

29 and distribute that amount under this subsection (3).

30 (4) Beginning July 1, 1999, at the conclusion of each authorized  
31 race meet, the commission shall calculate the mathematical average  
32 daily gross receipts of parimutuel wagering that is conducted only at  
33 the physical location of the live race meet at those race meets of  
34 licensees with gross receipts of all their in-state parimutuel machines  
35 of more than fifty million dollars. Such calculation shall include  
36 only the gross parimutuel receipts from wagering occurring on live  
37 racing dates, including live racing receipts and receipts derived from  
38 one simulcast race card that is conducted only at the physical location

1 of the live racing meet, which, for the purposes of this subsection, is  
2 "the handle." If the calculation exceeds eight hundred eighty-six  
3 thousand dollars, the licensee shall within ten days of receipt of  
4 written notification by the commission forward to the commission a sum  
5 equal to the product obtained by multiplying 0.6 percent by the handle.  
6 Sums collected by the commission under this subsection shall be  
7 forwarded on the next business day following receipt thereof to the  
8 state treasurer to be deposited in the fair fund created in RCW  
9 15.76.115.

10 (5) From the amounts imposed under subsection (2)(a) and (b) of  
11 this section, an amount equal to 0.13 percent of the licensee's daily  
12 gross receipts shall be deposited in the problem gambling account  
13 created in RCW 43.20A.892.

14 **Sec. 5.** RCW 82.04.261 and 2007 c 54 s 7 and 2007 c 48 s 4 are each  
15 reenacted and amended to read as follows:

16 (1) ~~((In addition to the taxes imposed under RCW 82.04.260(12), a~~  
17 ~~surcharge is imposed on those persons who are subject to any of the~~  
18 ~~taxes imposed under RCW 82.04.260(12). Except as otherwise provided in~~  
19 ~~this section, the surcharge is)) From the tax imposed under RCW  
20 82.04.260(12), an amount equal to ((0.052)) 0.0052 percent of the  
21 business's gross income shall be deposited into the forest and fish  
22 support account created in RCW 76.09.405. ((The surcharge is added to  
23 the rates provided in RCW 82.04.260(12) (a), (b), (c), and (d).)) The  
24 ((surcharge)) deposit and this section expire July 1, 2024.~~

25 (2) ~~((All receipts from the surcharge imposed under this section~~  
26 ~~shall be deposited into the forest and fish support account created in~~  
27 ~~RCW 76.09.405.~~

28 ~~(3))~~(a) The ~~((surcharge imposed))~~ deposit required under this  
29 section shall be suspended if:

30 (i) ~~((Receipts from the surcharge))~~ Deposits total at least eight  
31 million dollars during any fiscal biennium; or

32 (ii) The office of financial management certifies to the department  
33 that the federal government has appropriated at least two million  
34 dollars for participation in forest and fish report-related activities  
35 by federally recognized Indian tribes located within the geographical  
36 boundaries of the state of Washington for any federal fiscal year.

1 (b)(i) The suspension of the ~~((surcharge))~~ deposit under (a)(i) of  
2 this subsection ~~((+3))~~ (2) shall take effect on the first day of the  
3 calendar month that is at least thirty days after the end of the month  
4 during which the department determines that receipts from the  
5 ~~((surcharge))~~ deposit total at least eight million dollars during the  
6 fiscal biennium. The ~~((surcharge))~~ deposit shall be ~~((imposed))~~  
7 required again at the beginning of the following fiscal biennium.

8 (ii) The suspension of the ~~((surcharge))~~ deposit under (a)(ii) of  
9 this subsection ~~((+3))~~ (2) shall take effect on the later of the first  
10 day of October of any federal fiscal year for which the federal  
11 government appropriates at least two million dollars for participation  
12 in forest and fish report-related activities by federally recognized  
13 Indian tribes located within the geographical boundaries of the state  
14 of Washington, or the first day of a calendar month that is at least  
15 thirty days following the date that the office of financial management  
16 makes a certification to the department under subsection (5) of this  
17 section. The ~~((surcharge))~~ deposit shall be ~~((imposed))~~ required again  
18 on the first day of the following July.

19 ~~((+4))~~ (3)(a) If, by October 1st of any federal fiscal year, the  
20 office of financial management certifies to the department that the  
21 federal government has appropriated funds for participation in forest  
22 and fish report-related activities by federally recognized Indian  
23 tribes located within the geographical boundaries of the state of  
24 Washington but the amount of the appropriation is less than two million  
25 dollars, the department shall adjust the ~~((surcharge))~~ deposit in  
26 accordance with this subsection.

27 (b) The department shall adjust the ~~((surcharge))~~ deposit by an  
28 amount that the department estimates will cause the amount of funds  
29 deposited into the forest and fish support account for the state fiscal  
30 year that begins July 1st and that includes the beginning of the  
31 federal fiscal year for which the federal appropriation is made, to be  
32 reduced by twice the amount of the federal appropriation for  
33 participation in forest and fish report-related activities by federally  
34 recognized Indian tribes located within the geographical boundaries of  
35 the state of Washington.

36 (c) Any adjustment in the ~~((surcharge))~~ deposit shall take effect  
37 at the beginning of a calendar month that is at least thirty days after

1 the date that the office of financial management makes the  
2 certification under subsection (5) of this section.

3 (d) The ~~((surcharge))~~ deposit shall be ~~((imposed))~~ required again  
4 at the rate provided in subsection (1) of this section on the first day  
5 of the following state fiscal year unless the ~~((surcharge))~~ deposit is  
6 suspended under subsection ~~((+3+))~~ (2) of this section or adjusted for  
7 that fiscal year under this subsection.

8 ~~((e) Adjustments of the amount of the surcharge by the department  
9 are final and shall not be used to challenge the validity of the  
10 surcharge imposed under this section.~~

11 ~~((f) The department shall provide timely notice to affected  
12 taxpayers of the suspension of the surcharge or an adjustment of the  
13 surcharge.))~~

14 (4) A suspension or adjustment of the deposit required under  
15 subsection (1) of this section may not result in a reduction of the  
16 rate imposed under RCW 82.04.260(12). During any period of suspension  
17 or adjustment, revenues shall be deposited in the general fund.

18 (5) The office of financial management shall make the certification  
19 to the department as to the status of federal appropriations for tribal  
20 participation in forest and fish report-related activities.

21 **Sec. 6.** RCW 82.32.045 and 2006 c 256 s 1 are each amended to read  
22 as follows:

23 (1) Except as otherwise provided in this chapter, payments of the  
24 taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW,  
25 along with reports and returns on forms prescribed by the department,  
26 are due monthly within twenty-five days after the end of the month in  
27 which the taxable activities occur.

28 (2) The department of revenue may relieve any taxpayer or class of  
29 taxpayers from the obligation of remitting monthly and may require the  
30 return to cover other longer reporting periods, but in no event may  
31 returns be filed for a period greater than one year. For these  
32 taxpayers, tax payments are due on or before the last day of the month  
33 next succeeding the end of the period covered by the return.

34 (3) The department of revenue may also require verified annual  
35 returns from any taxpayer, setting forth such additional information as  
36 it may deem necessary to correctly determine tax liability.

1 (4) Notwithstanding subsections (1) and (2) of this section, the  
2 department may relieve any person of the requirement to file returns if  
3 the following conditions are met:

4 (a) The person's value of products, gross proceeds of sales, or  
5 gross income of the business, from all business activities taxable  
6 under chapter 82.04 RCW, is less (~~((than twenty-eight thousand dollars))~~)  
7 per year than the maximum credit under RCW 82.04.4451 for a year  
8 divided by the tax rate for other business services under RCW  
9 82.04.290(2);

10 (b) The person's gross income of the business from all activities  
11 taxable under chapter 82.16 RCW is less than twenty-four thousand  
12 dollars per year; and

13 (c) The person is not required to collect or pay to the department  
14 of revenue any other tax or fee which the department is authorized to  
15 collect.

16 **Sec. 7.** RCW 82.04.4451 and 1997 c 238 s 2 are each amended to read  
17 as follows:

18 (1) In computing the tax imposed under this chapter, a credit is  
19 allowed against the amount of tax otherwise due under this chapter, as  
20 provided in this section. The maximum credit for a taxpayer for a  
21 reporting period is thirty-five dollars multiplied by the number of  
22 months in the reporting period, as determined under RCW 82.32.045.

23 (2) When the amount of tax otherwise due under this chapter is  
24 equal to or less than the maximum credit, a credit is allowed equal to  
25 the amount of tax otherwise due under this chapter.

26 (3) When the amount of tax otherwise due under this chapter exceeds  
27 the maximum credit, a reduced credit is allowed equal to twice the  
28 maximum credit, minus the tax otherwise due under this chapter, but not  
29 less than zero.

30 (4) The department may prepare a tax credit table consisting of tax  
31 ranges using increments of no more than five dollars and a  
32 corresponding tax credit to be applied to those tax ranges. The table  
33 shall be prepared in such a manner that no taxpayer will owe a greater  
34 amount of tax by using the table than would be owed by performing the  
35 calculation under subsections (1) through (3) of this section. A table  
36 prepared by the department under this subsection shall be used by all  
37 taxpayers in taking the credit provided in this section.

1       (5) Beginning in calendar year 2009, the department shall increase  
2 the monthly dollar amount under subsection (1) of this section in use  
3 for that calendar year by the consumer price index. If any increase  
4 under this subsection is not a multiple of one dollar, the increase  
5 must be rounded to the next lowest multiple of one dollar. The monthly  
6 amount determined under this subsection must be used for reporting  
7 periods in the next calendar year.

8       (6) "Consumer price index" means the consumer price index compiled  
9 by the bureau of labor statistics, United States department of labor  
10 for the state of Washington. If the bureau of labor statistics  
11 develops more than one consumer price index for areas within the state,  
12 the index covering the greatest number of people, covering areas  
13 exclusively within the boundaries of the state, and including all items  
14 must be used as the consumer price index in this section.

15       NEW SECTION. Sec. 8. This act takes effect January 1, 2009.

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